

MARANA ORDINANCE NO. 2021.019

RELATING TO DEVELOPMENT; APPROVING A REZONING OF APPROXIMATELY 47 ACRES OF LAND, GENERALLY LOCATED ON THE NORTHWEST CORNER OF BARNETT ROAD AND SANDARIO ROAD, FROM R-6 (RESIDENTIAL) TO R-4 (RESIDENTIAL)

WHEREAS on October 20, 2001, the Mayor and Town Council adopted Ordinance No. 2001.016 rezoning land at the northwest corner of Sandario and Barnett Roads from "Zone A" to "R-6" (Residential); and

WHEREAS on August 20, 2013, the Mayor and Town Council adopted Ordinance No. 2013.020 amending Ordinance No. 2001.016 by revising certain rezoning conditions in order to conform to applicable state law and to accurately reflect and conform to the current Town of Marana policies and standard conditions; and

WHEREAS Cypress Green Gardens L.L.C. (the "Property Owners") owns the land that was subject to Ordinances 2001.016 and 2013.020, described as 47 acres of land located at the northwest corner of Sandario and Barnett Roads within a portion of Section 28, Township 11 South, Range 11 East, and more particularly described on Exhibit "A" attached to and incorporated in this ordinance by this reference (the "Rezoning Area"); and

WHEREAS the Property Owners have authorized Paradigm Land Design LLC to submit an application to rezone the Rezoning Area from R-6 (Residential) to R-4 (Residential) ("this Rezoning"); and

WHEREAS the Marana Planning Commission held a public hearing on this Rezoning on August 25, 2021, and voted 7-0 to recommend approval of the rezoning to the Town Council subject to the recommended conditions and with two additional recommended conditions: 1) homes on lots 46-58 shall be restricted to single-story and 2) the street in the southwest corner of the subdivision shall connect to Barnett Road or a cul-de-sac will be provided in that location as accepted by the Town Engineer; and

WHEREAS the Marana Town Council held a public hearing on this Rezoning on September 21, 2021 and determined that the application for rezoning should be approved.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Marana, Arizona, as follows:

Section 1. The zoning of the Rezoning Area is hereby changed from R-6 (Residential) to R-4 (Residential).

Section 2. This Rezoning is subject to the following conditions, the violation of which shall be treated in the same manner as a violation of the Town of Marana Land Development Code (but which shall not cause a reversion of this Rezoning), and which shall be binding on the Property Owners and their successors in interest (all of whom are collectively included in the term “Property Owners” in the following conditions):

1. Compliance with all applicable provisions of the Town’s Codes and Ordinances current at the time of any subsequent development including, but not limited to, requirements for public improvements and payment of application fees and applicable development impact fees.
2. Any preliminary plat or development plan for any portion of the Rezoning Area shall be in substantial conformance with the Preliminary Development Plan presented to and approved by the Town Council as part of this Rezoning.
3. A master drainage study must be submitted by the Property Owners and accepted by the Town Engineer prior to Town approval of a preliminary plat or development plan for any portion of the Rezoning Area.
4. A water infrastructure and phasing plan (WIP) must be submitted by the Property Owners and accepted by the water provider prior to approval of a preliminary plat for any portion of the Rezoning Area. The WIP shall identify all on-site and off-site water facilities needed to serve the proposed development. The WIP shall include all information required by the water provider, such as (but not limited to) analysis of water use and fire flow requirements, and well source, reservoir, and booster station infrastructure needed to serve the proposed development. If the water provider requires a water service agreement as a condition of service to the proposed development, the Property Owners must enter into a water service agreement with the water provider consistent with the accepted WIP.
5. A master sewer plan must be submitted by the Property Owners and accepted by the Marana Water Reclamation Department (the “wastewater utility”) prior to the approval of any final plat or development plan for the Rezoning Area. The master sewer plan shall identify all on-site and off-site wastewater facilities needed to serve the proposed development, and shall include all information required by the wastewater utility. If the wastewater utility requires a sewer service agreement as a condition of service to the proposed development, the Property Owners must enter into a sewer service agreement with the wastewater utility consistent with the accepted master sewer plan.
6. The Property Owners must design and construct any roadway, drainage, water, and wastewater improvements, and dedicate or acquire any property rights associated with those improvements, that the Town requires based on the data and findings of the accepted traffic impact analysis, the accepted master drainage study, the accepted WIP, the accepted master sewer plan, and other studies approved in connection with the approval of a preliminary plat or development plan for any portion of the Rezoning Area.

7. The final design of all streets and circulation facilities, including any gated or emergency access, must be accepted by the Northwest Fire District prior to Town Council consideration of a final plat for any portion of the Rezoning Area.
8. The maximum number of single family detached residential lots within the Rezoning Area shall not exceed 217.
9. No approval, permit or authorization by the Town of Marana authorizes violation of any Federal or State law or regulation or relieves the Property Owners from responsibility to ensure compliance with all applicable federal and state laws and regulations, including the Endangered Species Act and the Clean Water Act. The Property Owners should retain appropriate experts and consult appropriate Federal and State agencies to determine any action necessary to assure compliance with applicable laws and regulations.
10. The Property Owners shall transfer to the Marana Water Reclamation Department, by the appropriate Arizona Department of Water Resources form, those water rights being IGR, Type I or Type II for the Town providing designation of assured water supply and water service to the Rezoning Area. If Type I or Type II is needed on the Rezoning Area, the Marana Water Reclamation Department and the Property Owners shall arrive at an agreeable solution to the use of those water rights appurtenant to the affected portion of the Rezoning Area.
11. Prior to the issuance of any grading permits, the Property Owners shall submit evidence to the Town that all federal permit requirements have been met through the Army Corps of Engineers and the State Historic Preservation Office, if federal permits are required for the development of the Rezoning Area.
12. The Property Owners shall not cause any lot split of any kind without the written consent of the Town of Marana.
13. Prior to issuance of a building permit and pursuant to Marana Ordinance No. 99.02, the Property Owners within the Lower Santa Cruz River Levee Benefit Area shall reimburse the Town for the project's proportionate share for the construction of the Lower Santa Cruz River Levee.
14. The Property Owners shall install a non-potable system to serve the common open space areas and other landscape amenities, as accepted by the Cortaro-Marana Irrigation District.
15. The Property Owners shall notify potential buyers that some or all of the property in the Rezoning Area is subject to an annual tax and assessment by Cortaro-Marana Irrigation District and Cortaro Water User's Association.
16. The property owner shall ensure safe pedestrian access to the main recreation area, which is separated from the homes south of the proposed extension of Bill Gaudette Drive, by installing a pedestrian underpass beneath the proposed extension or another safe pedestrian connection treatment determined by the Town Engineer.
17. The perimeter subdivision wall along the Sandario Road frontage shall consist of a minimum six foot high decorative block wall.

18. The plant materials within the minimum 10-foot bufferyard along the Sandario frontage, from the southern access point to Barnett Road shall be planted with a minimum of six trees (50% 24-inch box or greater) 12 shrubs, and 15 - one gallon ground cover / accent plants per 1,000 square feet of area.
19. The Property Owners shall notify potential buyers that Yoem Pueblo, a cultural resource, is located across Sandario Road and contains sacred grounds that have active Tribal ceremonies on an ongoing basis.
20. Vehicular access from Sandario Road to the Rezoning Area must be located more than 700-feet north of Barnett Road.
21. The property contains potentially suitable habitat for the burrowing owl. Please note that the Western Burrowing Owl is protected under the Federal Migratory Bird Treaty Act of 1918 and State Law Titles 17-101 and 17-235. Per the Act and state law, a qualified biologist (certified by AZ Game & Fish Dept. - AZGFD) must perform a survey 30 days prior to the start of grading. If a burrowing owl is detected during the survey, AZGFD will coordinate with the property owner to exclude or move the owls without causing delay to the project.
22. The Property Owners shall notify potential buyers that an avigation easement has been recorded on this property in the Pima County Recorder's Office at Sequence No. 20141900040.
23. The Property Owners shall notify potential buyers that the Rezoning Area falls in the Airport Influence Zone as delineated in the Make Marana 2040 General plan, and is subject to frequent overflight by general aviation aircraft.
24. Homes on lots 46-58 as shown on the Preliminary Development Plan, adjacent to Sandario Road, shall be restricted to single-story.
25. The street in the southwest corner of the subdivision shall connect to Barnett Road or a cul-de-sac will be provided in that location, as accepted by the Town Engineer.

Section 3. All ordinances, resolutions and motions and parts of ordinances, resolutions, and motions of the Marana Town Council in conflict with the provisions of this ordinance are hereby repealed, effective as of the effective date of this ordinance.

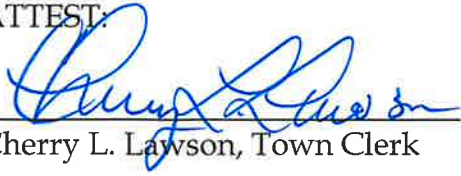
Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 21st day of September, 2021.



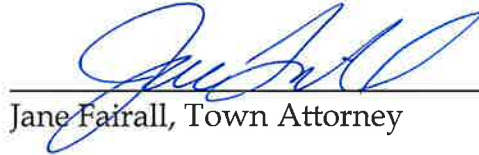
Mayor Ed Honea

ATTEST:



Cherry L. Lawson, Town Clerk

APPROVED AS TO FORM:



Jane Fairall, Town Attorney



EXHIBIT A

Cypress Gardens Legal Description

Lots 1 thru 165 and Common Areas "A", "B" & "C" as shown on the Final Plat for Cypress Gardens (Seq. 20141710116).